

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

)
KELLY CAHILL, SARA JOHNSTON,)
LINDSAY ELIZABETH, and HEATHER)
HENDER, individually and on)
behalf of others similarly)
situated,)

Plaintiffs,)

vs.)

No. 3:18-CV-01477-JR

NIKE, INC., an Oregon)
Corporation,)

Defendant.)

VIDEOTAPED REMOTE DEPOSITION OF DAVID NEUMARK, Ph.D.
San Francisco, California
Tuesday, August 31, 2021
Volume I

Reported by:
CATHERINE A. RYAN, RMR, CRR
CSR No. 8239
Job No. 4778006

PAGES 1 - 299

Page 1

1 MR. KAN: Objection. Vague and ambiguous. 09:53:58

2 THE WITNESS: Can I just ask you to --

3 when you say did I do any analysis of jobs, can I

4 just ask you to explain if you have something

5 specific in mind? 09:54:07

6 MS. DAVIS: Sure.

7 Q Did you learn anything about the content

8 of any of Nike's jobs that made you feel confident

9 that grouping job subfamily and job level together

10 was properly grouping employees who performed 09:54:25

11 substantially similar work?

12 A So I did not do any what is called "job

13 analysis," which is not something people in my field

14 do, ~~so~~. I hope I'm defining it correctly as what

15 industrial organization psychologists do. I did not 09:54:41

16 observe work. I did not talk to workers or anything

17 of that sort.

18 I relied on Dr. Lundquist's opinion on

19 this, and that is her area of expertise, to my

20 understanding, and I would say I relied secondarily 09:54:58

21 on things Nike said -- I think they're cited in this

22 paragraph. They may be cited elsewhere -- about

23 this being the way in which they organize work

24 and -- you know, and think about -- about workers

25 having similar skills, et cetera. 09:55:17

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1 correct? 15:03:33

2 A I have never -- I have not, in this
3 report, ever discussed the determination of which
4 ^{you}subfamily_^are hired in, which is what I control for
5 in column 2, as related to discrimination. Whether 15:03:50
6 other evidence might be introduced in the future
7 that suggests it is, I might -- I might -- I might
8 go back to that differently, but at this point, no.

9 Q Column 3 does add job level, correct?

10 A Yes. 15:04:04

11 Q Right.

12 And then column 4 is the interaction of
13 job subfamily and job level, correct?

14 A Yes.

15 Q Between columns 3 and 4, which one do you 15:04:16
16 believe is the most accurate or most appropriate to
17 use in this case?

18 MR. KAN: Objection. Vague and ambiguous.

19 THE WITNESS: I think -- I think what I
20 say and I show here is that column 4 is probably 15:04:30
21 more appropriate for equal pay claim, and that's
22 based -- you know, we discussed this before, but
23 princ- -- you know, reason number one would be
24 Dr. Lundquist's opinion that -- that subfamily times
25 level interactions ^{are}~~have~~ the appropriate level of 15:04:46

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1 analysis -- unit of analysis for an equal pay claim. 15:04:49
2 It turns out column 3 estimates are almost the same,
3 but that's neither here nor there.

4 BY MS. DAVIS:

5 Q Yeah. They're almost the same, but 15:04:57
6 they're not identical?

7 A Right.

8 Q So -- right.

9 So what -- so can you just explain in --
10 you know, I'm not an expert like you, so in the 15:05:06
11 easiest, simplest way you can, the difference
12 between column 3 and column 4?

13 A Sure.

14 So column 3 -- forget about all the other
15 controls, just as -- education, you know, age, all 15:05:19
16 that stuff. There's -- column 3 has subfamily
17 controls, and that allows the wages to differ
18 systematically by subfamily ~~or by the subfamily~~
19 ~~algorithm~~. Some are paid more; some are paid less.

20 And it allows pay to differ systematically by level. 15:05:35
21 But because there aren't interactions, though, the
22 differences between -- just call it level one and
23 level two, level three and four, et cetera, are
24 constrained to be the same for each subfamily.

25 There's -- there's -- there are -- so there are -- 15:05:50

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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

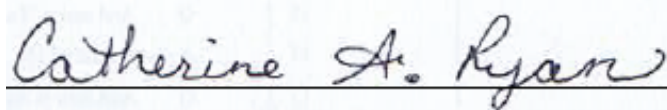
4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing is a true
11 record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [X] was [] was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney or any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: 09/07/2021

23 

24 Catherine A. Ryan, RMR, CRR

25 CSR No. 8239

Page 299

Errata Sheet for the Deposition of David Neumark
Taken on August 31, 2021 in the matter of *Cahill et al. v. Nike, Inc.*

Page: 20

Line: 15

Change: "average" to "averages"

Reason: transcription error (TE)

Page: 21

Line: 6

Change: "An" to "The"

Reason: TE

Page: 27

Line: 6

Change: "me" to "me – "

Reason: TE

Page: 32

Line: 3

Change: "statistical" to "statistically"

Reason: TE

Page: 32

Line: 14

Change: "variant" to "variance"

Reason: TE

Page: 33

Line: 10

Change: "criteria" to "criterion"

Reason: TE

Page: 33

Line: 13

Change: "is" to "as"

Reason: TE

Page: 33

Line: 14

Change: "informed." to "informative."

Reason: TE

Page: 35

Line: 10-11

Change: "there. But" to "there – but"

Reason: TE

Page: 35

Line: 20

Change: "any" to "that any"

Reason: Clarification (C)

Page: 38

Line: 14

Change: delete “, so”

Reason: C

Page: 41

Line: 18

Change: “and I simply” to “and later I simply”

Reason: Clarification

Page: 45

Line: 21

Change: “scales” to “skills”

Reason: TE

Page: 46

Line: 7

Change: “moves” to “means”

Reason: TE

Page: 46

Line: 13

Change: “reference” to “referenced”

Reason: TE

Page: 53

Line: 24

Change: “subfamily levels.” To “subfamily and levels.”

Reason: TE

Page: 57

Line: 23

Change: “some does.” to “one does.”

Reason: TE

Page: 63

Line: 19

Change: “has” to “as”

Reason: TE

Page: 69

Line: 14

Change: “It’s like I can’t identify.” to “I can’t identify it.”

Reason: C

Page: 69

Line: 17

Change: “shortfall.” to “shortfall?”

Reason: TE

Page: 75

Line: 13

Change: “about. The” to “about – the”

Reason: TE

Page: 78

Line: 13

Change: "simplist" to "simplest"

Reason: TE

Page: 81

Line: 10

Change: "of" to "about"

Reason: TE

Page: 82

Line: 10

Change: "that that that that" to "that"

Reason: TE/C

Page: 84

Line: 6-7

Change: "We got/we got" to "We've got/we've got" (3 X)

Reason: TE

Page: 90

Line: 8

Change: "research" to "in research"

Reason: TE

Page: 91

Line: 23

Change: "the appendix" to "vs. the appendix"

Reason: TE

Page: 92

Line: 16

Change: "corpuses" to "corpora"

Reason: Correction

Page: 95

Line: 25

Change: "day" to "data"

Reason: TE

Page: 116

Line: 8

Change: "has" to "hasn't"

Reason: TE

Page: 126

Line: 24

Change: "matter" to "matters"

Reason: TE

Page: 127

Line: 24

Change: "linguistic" to "linguistically"

Reason: TE

Page: 127

Line: 25

Change: "say," to "say:"

Reason: TE

Page: 135

Line: 14, 15

Change: "square" to "squared" (2X)

Reason: TE

Page: 145

Line: 7

Change: ", the person who got the highest degree." to "the person got the highest degree from."

Reason: C

Page: 146

Line: 8

Change: "not just" to "not that"

Reason: TE

Page: 149

Line: 12

Change: "spell" to "spelled"

Reason: TE

Page: 149

Line: 12-13

Change: "present it" to "presented"

Reason: TE

Page: 150

Line: 24

Change: "everyone. There" to "everyone – there"

Reason: TE

Page: 154

Line: 11

Change: "turned down," to "turned on,"

Reason: TE

Page: 161

Line: 18

Change: "send me the report" to "send me the quote from the report"

Reason: Clarification

Page: 161

Line: 20

Change: "a cite page" to "and cite a page"

Reason: TE

Page: 175

Line: 23-24

Change: "estimate, that you did obtain from the data" to "estimate that you did obtain from the data,"

Reason: TE

Page: 176

Line: 23-24

Change: "five. One I don't report. I recorded." to ", five are recorded."

Reason: TE

Page: 177

Line: 10

Change: "by .56" to "at .56"

Reason: TE

Page: 185

Line: 14

Change: change "think to do it" to "think of to do with it."

Reason: TE

Page: 193

Line: 11

Change: "do worse." to "do better."

Reason: Correction/TE

Page: 197

Line: 18

Change: "P level" to "P value"

Reason: TE

Page: 202

Line: 11

Change: "date" to "data"

Reason: TE

Page: 204

Line: 11

Change: "Time and" to "Time in"

Reason: TE

Page: 209

Line: 20

Change: "could" to "couldn't"

Reason: TE

Page: 209

Line: 24

Change: "having this ranking compensation" to ?

Reason: TE – but I can't tell from written transcript what I said

Page: 213

Line: 4

Change: "are hired" to "you are hired"

Reason: TE

Page: 213

Line: 25

Change: "have" to "are"

Reason: TE

Page: 214

Line: 18-19

Change: "by subfamily or by the subfamily algorithm" to "by subfamily."

Reason: TE/Clarification

Page: 217

Line: 1

Change: "unmet" to "always"

Reason: TE

Page: 229

Line: 1

Change: "take" to "make"

Reason: TE

Page: 229

Line: 17

Change: "policy change for the" to "policy change. For the"

Reason: TE

Page: 229

Line: 18

Change: "employees. And note it's 15,000 versus about 3600." to "employees – and note it's 15,000 versus about 3600 --"

Reason: TE

Page: 229

Line: 19

Change: "There" to "there"

Reason:

Page: 233

Line: 4

Change: "2018, '19" to "2018-19"

Reason: TE

Page: 235

Line: 17

Change: "there is" to "merits"

Reason: TE

Page: 237

Line: 6

Change: "time and" to "time in"

Reason: TE

Page: 237

Line: 22

Change: “as respect” to “with respect”

Reason: TE

Page: 238

Line: 16

Change: “first” to “for”

Reason: TE

Page: 240

Line: 21

Change: “pre-periods” to “pre-period’s”

Reason: TE

Page: 243

Line: 9

Change: “before, it’s September 7 – 27 – ’17, is – that’s” to “before September ’17, that’s”

Reason: Clarification

Page: 244

Line: 5

Change: “interactives” to “interactions”

Reason: TE

Page: 244

Line: 18

Change: “data” to “Stata”

Reason: TE

Page: 244

Line: 24

Change: “in” to “on”

Reason: TE

Page: 245

Line: 1

Change: “its data” to “Stata”

Reason: TE

Page: 246

Line: 3

Change: “report” to “support”

Reason: TE

Page: 246

Line: 6

Change: “The best estimate is get” to “The best estimate is women get”

Reason: TE

Page: 248

Line: 6-7

Change: “common sense” to “close to Column 6”

Reason: TE

Page: 252

Line: 4

Change: "control" to "controls"

Reason: TE

Page: 252

Line: 8

Change: "in the sample" to "with the sample"

Reason: TE

Page: 254

Line: 4

Change: After period, add "But this refers to explaining the gender gap in base pay, not explaining variation in base pay."

Reason: Clarification

Page: 261

Line: 14

Change: "pose" to "impose"

Reason: TE

Page: 267

Line: 8

Change: "professor" to "professor candidates"

Reason: TE/clarification

Page: 268

Line: 1

Change: "application" to "applications"

Reason: TE

Page: 268

Line: 18

Change: "level of industry" to "cell of industry and"

Reason: TE

Page: 270

Line: 13

Change: "five" to "at the five"

Reason: TE

Page: 279

Line: 12

Change: "these controls" to "the gender variable"

Reason: TE/clarification

Page: 280

Line: 3

Change: "process, makes" to "process. Makes"

Reason: TE

Page: 282

Line: 9

Change: "CHR" to "CHRO"

Reason: TE/clarification

Page: 283

Line: 3

Change: "the profits" to "steered"

Reason: TE

Page: 283

Line: 8

Change: "interaction" to "interacting"

Reason: TE

Page: 285

Line: 10

Change: "looser" to "loose"

Reason: TE

Page: 288

Line: 9

Change: "we discuss" to "we discussed"

Reason: TE

Page: 297

Line: 7, 8

Change: "anything" to "anything's" 2X

Reason: TE



David Neumark

9/23/21

Date